

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE JUNE 9, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 234

Introduced by Assembly Member Gordon

February 4, 2015

An act to amend ~~Section~~ *Sections 113789 and 114376* of the Health and Safety Code, relating to food.

LEGISLATIVE COUNSEL'S DIGEST

AB 234, as amended, Gordon. Food: sale.

Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities and provides for the enforcement of those standards by local health agencies and by the State Department of Public Health, as specified. Under existing law, unless a local jurisdiction adopts an ordinance prohibiting the activity, a community food producer or gleaner may sell or provide whole uncut fruits or vegetables, or unrefrigerated shell eggs, directly to the public, to a permitted restaurant, or a cottage food operation if the community food producer meets specified requirements. Existing law authorizes a local city or county health enforcement office to require a community food producer or gleaner to register with the city or county to provide specified information. A violation of the code is a crime.

This bill would remove the local ordinance prohibition exception, and would authorize a community food producer ~~or gleaner~~ to sell or provide whole uncut fruits or vegetables, or unrefrigerated shell eggs, directly to *the public, and authorize a permitted food facility, facility, a cottage food operation, or a gleaner to sell or provide the same food*

*produced by a community food producer directly to the public without registration or to donate the same food produced by a community food producer to a food bank or food kitchen without registration, if specified requirements are met. The bill would ~~provide that prohibit~~ a local city or county health enforcement ~~office may only require, office,~~ unless otherwise authorized by a local ordinance adopted by a local jurisdiction, ~~from requiring~~ a community food producer ~~or gleaner~~ to register with the city or county ~~and to provide specified information or to meet additional requirements~~ if the community food producer ~~or gleaner~~ ~~does not meet~~ *meets* any of the specified conditions. ~~The bill would require a community food producer or gleaner that sells or provides the above-mentioned food directly to the public, and a food bank or food kitchen that receives the same food donated by a community food producer or gleaner, pursuant to these provisions to retain records related to the sale, provision, or donation of food for 30 days, as specified.~~ By expanding the definition of a crime, this bill would impose a state-mandated local program.*

Existing law exempts from the definition of food facility premises operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

This bill would instead exclude from the definition of food facility an outlet or location, including, but not limited to, premises, operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.

This bill would incorporate additional changes to Section 113789 of the Health and Safety Code, proposed by AB 143 and AB 226, that would become operative only if this bill and either or both of those bills are chaptered and become effective January 1, 2016, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 113789 of the Health and Safety Code is*
2 *amended to read:*

3 113789. (a) “Food facility” means an operation that stores,
4 prepares, packages, serves, vends, or otherwise provides food for
5 human consumption at the retail level, including, but not limited
6 to, the following:

7 (1) An operation where food is consumed on or off the premises,
8 regardless of whether there is a charge for the food.

9 (2) A place used in conjunction with the operations described
10 in this subdivision, including, but not limited to, storage facilities
11 for food-related utensils, equipment, and materials.

12 (b) “Food facility” includes permanent and nonpermanent food
13 facilities, including, but not limited to, the following:

14 (1) Public and private school cafeterias.

15 (2) Restricted food service facilities.

16 (3) Licensed health care facilities, except as provided in
17 paragraph (13) of subdivision (c).

18 (4) Commissaries.

19 (5) Mobile food facilities.

20 (6) Mobile support units.

21 (7) Temporary food facilities.

22 (8) Vending machines.

23 (9) Certified farmers’ markets, for purposes of permitting and
24 enforcement pursuant to Section 114370.

25 (10) Farm stands, for purposes of permitting and enforcement
26 pursuant to Section 114375.

27 (c) “Food facility” does not include any of the following:

28 (1) A cooperative arrangement wherein no permanent facilities
29 are used for storing or handling food.

30 (2) A private home, including a cottage food operation that is
31 registered or has a permit pursuant to Section 114365.

32 (3) A church, private club, or other nonprofit association that
33 gives or sells food to its members and guests, and not to the general
34 public, at an event that occurs not more than three days in any
35 90-day period.

36 (4) A for-profit entity that gives or sells food at an event that
37 occurs not more than three days in a 90-day period for the benefit
38 of a nonprofit association, if the for-profit entity receives no

1 monetary benefit, other than that resulting from recognition from
2 participating in an event.

3 (5) Premises set aside for wine tasting, as that term is used in
4 Section 23356.1 of the Business and Professions Code and in the
5 regulations adopted pursuant to that section, that comply with
6 Section 118375, regardless of whether there is a charge for the
7 wine tasting, if no other beverage, except for bottles of wine and
8 prepackaged nonpotentially hazardous beverages, is offered for
9 sale for onsite consumption and no food, except for crackers, is
10 served.

11 (6) ~~Premises~~ *An outlet or location, including, but not limited*
12 *to, premises*, operated by a producer, selling or offering for sale
13 only whole produce grown by the producer or shell eggs, or both,
14 provided the sales are conducted ~~on premises at an outlet or~~
15 *location* controlled by the producer.

16 (7) A commercial food processing establishment as defined in
17 Section 111955.

18 (8) A child day care facility, as defined in Section 1596.750.

19 (9) A community care facility, as defined in Section 1502.

20 (10) A residential care facility for the elderly, as defined in
21 Section 1569.2.

22 (11) A residential care facility for the chronically ill, which has
23 the same meaning as a residential care facility, as defined in Section
24 1568.01.

25 (12) Premises set aside by a beer manufacturer, as defined in
26 Section 25000.2 of the Business and Professions Code, that comply
27 with Section 118375, for the purposes of beer tasting, regardless
28 of whether there is a charge for the beer tasting, if no other
29 beverage, except for beer and prepackaged nonpotentially
30 hazardous beverages, is offered for sale for onsite consumption,
31 and no food, except for crackers, pretzels, or prepackaged food
32 that is not potentially hazardous food is offered for onsite
33 consumption.

34 (13) (A) An intermediate care facility for the developmentally
35 disabled, as defined in subdivisions (e), (h), and (m) of Section
36 1250, with a capacity of six beds or fewer.

37 (B) A facility described in subparagraph (A) shall report any
38 foodborne illness or outbreak to the local health department and
39 to the State Department of Public Health within 24 hours of the
40 illness or outbreak.

1 (14) A community food producer, as defined in Section 113752.
2 *SEC. 1.1. Section 113789 of the Health and Safety Code is*
3 *amended to read:*

4 113789. (a) “Food facility” means an operation that stores,
5 prepares, packages, serves, vends, or otherwise provides food for
6 human consumption at the retail level, including, but not limited
7 to, the following:

8 (1) An operation where food is consumed on or off the premises,
9 regardless of whether there is a charge for the food.

10 (2) A place used in conjunction with the operations described
11 in this subdivision, including, but not limited to, storage facilities
12 for food-related utensils, equipment, and materials.

13 (b) “Food facility” includes permanent and nonpermanent food
14 facilities, including, but not limited to, the following:

15 (1) Public and private school cafeterias.

16 (2) Restricted food service facilities.

17 (3) Licensed health care facilities, except as provided in
18 paragraph (13) of subdivision (c).

19 (4) Commissaries.

20 (5) Mobile food facilities.

21 (6) Mobile support units.

22 (7) Temporary food facilities.

23 (8) Vending machines.

24 (9) Certified farmers’ markets, for purposes of permitting and
25 enforcement pursuant to Section 114370.

26 (10) Farm stands, for purposes of permitting and enforcement
27 pursuant to Section 114375.

28 (c) “Food facility” does not include any of the following:

29 (1) A cooperative arrangement wherein no permanent facilities
30 are used for storing or handling food.

31 (2) A private home, including a cottage food operation that is
32 registered or has a permit pursuant to Section 114365.

33 (3) A church, private club, or other nonprofit association that
34 gives or sells food to its members and guests, and not to the general
35 public, at an event that occurs not more than three days in any
36 90-day period.

37 (4) A for-profit entity that gives or sells food at an event that
38 occurs not more than three days in a 90-day period for the benefit
39 of a nonprofit association, if the for-profit entity receives no

1 monetary benefit, other than that resulting from recognition from
2 participating in an event.

3 (5) Premises set aside for wine tasting, as that term is used in
4 Section 23356.1 of the Business and Professions Code, or
5 *premises set aside by a beer manufacturer, as defined in Section*
6 *25000.2 of the Business and Professions Code*, and in the
7 regulations adopted pursuant to ~~that section~~, *those sections*, that
8 comply with Section 118375, regardless of whether there is a
9 charge for the wine *or beer* tasting, if no other beverage, except
10 for bottles of wine *or beer* and prepackaged nonpotentially
11 hazardous beverages, is offered for sale *or* for onsite consumption
12 and no food, except for crackers, ~~is served~~, *pretzels, or*
13 *prepackaged food that is not potentially hazardous food is offered*
14 *for sale or for onsite consumption.*

15 (6) ~~Premises~~ *An outlet or location, including, but not limited*
16 *to, premises*, operated by a producer, selling or offering for sale
17 only whole produce grown by the producer or shell eggs, or both,
18 provided the sales are conducted ~~on premises at an outlet or~~
19 *location* controlled by the producer.

20 (7) A commercial food processing establishment as defined in
21 Section 111955.

22 (8) A child day care facility, as defined in Section 1596.750.

23 (9) A community care facility, as defined in Section 1502.

24 (10) A residential care facility for the elderly, as defined in
25 Section 1569.2.

26 (11) A residential care facility for the chronically ill, which has
27 the same meaning as a residential care facility, as defined in Section
28 1568.01.

29 ~~(12) Premises set aside by a beer manufacturer, as defined in~~
30 ~~Section 25000.2 of the Business and Professions Code, that comply~~
31 ~~with Section 118375, for the purposes of beer tasting, regardless~~
32 ~~of whether there is a charge for the beer tasting, if no other~~
33 ~~beverage, except for beer and prepackaged nonpotentially~~
34 ~~hazardous beverages, is offered for sale for onsite consumption,~~
35 ~~and no food, except for crackers, pretzels, or prepackaged food~~
36 ~~that is not potentially hazardous food is offered for onsite~~
37 ~~consumption.~~

38 (13)

1 (12) (A) An intermediate care facility for the developmentally
2 disabled, as defined in subdivisions (e), (h), and (m) of Section
3 1250, with a capacity of six beds or fewer.

4 (B) A facility described in subparagraph (A) shall report any
5 foodborne illness or outbreak to the local health department and
6 to the State Department of Public Health within 24 hours of the
7 illness or outbreak.

8 ~~(14)~~

9 (13) A community food producer, as defined in Section 113752.
10 SEC. 1.2. Section 113789 of the Health and Safety Code is
11 amended to read:

12 113789. (a) “Food facility” means an operation that stores,
13 prepares, packages, serves, vends, or otherwise provides food for
14 human consumption at the retail level, including, but not limited
15 to, the following:

16 (1) An operation where food is consumed on or off the premises,
17 regardless of whether there is a charge for the food.

18 (2) A place used in conjunction with the operations described
19 in this subdivision, including, but not limited to, storage facilities
20 for food-related utensils, equipment, and materials.

21 (b) “Food facility” includes permanent and nonpermanent food
22 facilities, including, but not limited to, the following:

23 (1) Public and private school cafeterias.

24 (2) Restricted food service facilities.

25 (3) Licensed health care facilities, except as provided in
26 paragraph (13) of subdivision (c).

27 (4) Commissaries.

28 (5) Mobile food facilities.

29 (6) Mobile support units.

30 (7) Temporary food facilities.

31 (8) Vending machines.

32 (9) Certified farmers’ markets, for purposes of permitting and
33 enforcement pursuant to Section 114370.

34 (10) Farm stands, for purposes of permitting and enforcement
35 pursuant to Section 114375.

36 (11) Fishermen’s markets.

37 (c) “Food facility” does not include any of the following:

38 (1) A cooperative arrangement wherein no permanent facilities
39 are used for storing or handling food.

1 (2) A private home, including a cottage food operation that is
2 registered or has a permit pursuant to Section 114365.

3 (3) A church, private club, or other nonprofit association that
4 gives or sells food to its members and guests, and not to the general
5 public, at an event that occurs not more than three days in any
6 90-day period.

7 (4) A for-profit entity that gives or sells food at an event that
8 occurs not more than three days in a 90-day period for the benefit
9 of a nonprofit association, if the for-profit entity receives no
10 monetary benefit, other than that resulting from recognition from
11 participating in an event.

12 (5) Premises set aside for wine tasting, as that term is used in
13 Section 23356.1 of the Business and Professions Code and in the
14 regulations adopted pursuant to that section, that comply with
15 Section 118375, regardless of whether there is a charge for the
16 wine tasting, if no other beverage, except for bottles of wine and
17 prepackaged nonpotentially hazardous beverages, is offered for
18 sale for onsite consumption and no food, except for crackers, is
19 served.

20 (6) ~~Premises~~ *An outlet or location, including, but not limited*
21 *to, premises*, operated by a producer, selling or offering for sale
22 only whole produce grown by the producer or shell eggs, or both,
23 provided the sales are conducted ~~on premises~~ *at an outlet or*
24 *location* controlled by the producer.

25 (7) A commercial food processing establishment as defined in
26 Section 111955.

27 (8) A child day care facility, as defined in Section 1596.750.

28 (9) A community care facility, as defined in Section 1502.

29 (10) A residential care facility for the elderly, as defined in
30 Section 1569.2.

31 (11) A residential care facility for the chronically ill, which has
32 the same meaning as a residential care facility, as defined in Section
33 1568.01.

34 (12) Premises set aside by a beer manufacturer, as defined in
35 Section 25000.2 of the Business and Professions Code, that comply
36 with Section 118375, for the purposes of beer tasting, regardless
37 of whether there is a charge for the beer tasting, if no other
38 beverage, except for beer and prepackaged nonpotentially
39 hazardous beverages, is offered for sale for onsite consumption,
40 and no food, except for crackers, pretzels, or prepackaged food

1 that is not potentially hazardous food is offered for onsite
2 consumption.

3 (13) (A) An intermediate care facility for the developmentally
4 disabled, as defined in subdivisions (e), (h), and (m) of Section
5 1250, with a capacity of six beds or fewer.

6 (B) A facility described in subparagraph (A) shall report any
7 foodborne illness or outbreak to the local health department and
8 to the State Department of Public Health within 24 hours of the
9 illness or outbreak.

10 (14) A community food producer, as defined in Section 113752.

11 *SEC. 1.3. Section 113789 of the Health and Safety Code is*
12 *amended to read:*

13 113789. (a) “Food facility” means an operation that stores,
14 prepares, packages, serves, vends, or otherwise provides food for
15 human consumption at the retail level, including, but not limited
16 to, the following:

17 (1) An operation where food is consumed on or off the premises,
18 regardless of whether there is a charge for the food.

19 (2) A place used in conjunction with the operations described
20 in this subdivision, including, but not limited to, storage facilities
21 for food-related utensils, equipment, and materials.

22 (b) “Food facility” includes permanent and nonpermanent food
23 facilities, including, but not limited to, the following:

24 (1) Public and private school cafeterias.

25 (2) Restricted food service facilities.

26 (3) Licensed health care facilities, except as provided in
27 paragraph (13) of subdivision (c).

28 (4) Commissaries.

29 (5) Mobile food facilities.

30 (6) Mobile support units.

31 (7) Temporary food facilities.

32 (8) Vending machines.

33 (9) Certified farmers’ markets, for purposes of permitting and
34 enforcement pursuant to Section 114370.

35 (10) Farm stands, for purposes of permitting and enforcement
36 pursuant to Section 114375.

37 (11) *Fishermen’s markets.*

38 (c) “Food facility” does not include any of the following:

39 (1) A cooperative arrangement wherein no permanent facilities
40 are used for storing or handling food.

1 (2) A private home, including a cottage food operation that is
2 registered or has a permit pursuant to Section 114365.

3 (3) A church, private club, or other nonprofit association that
4 gives or sells food to its members and guests, and not to the general
5 public, at an event that occurs not more than three days in any
6 90-day period.

7 (4) A for-profit entity that gives or sells food at an event that
8 occurs not more than three days in a 90-day period for the benefit
9 of a nonprofit association, if the for-profit entity receives no
10 monetary benefit, other than that resulting from recognition from
11 participating in an event.

12 (5) Premises set aside for wine tasting, as that term is used in
13 Section 23356.1 of the Business and Professions ~~Code Code~~, or
14 ~~premises set aside by a beer manufacturer, as defined in Section~~
15 ~~25000.2 of the Business and Professions Code~~, and in the
16 regulations adopted pursuant to ~~that section~~, those sections, that
17 comply with Section 118375, regardless of whether there is a
18 charge for the wine *or beer* tasting, if no other beverage, except
19 for bottles of wine *or beer* and prepackaged nonpotentially
20 hazardous beverages, is offered for sale *or* for onsite consumption
21 and no food, except for crackers, ~~is served~~ *pretzels, or*
22 *prepackaged food that is not potentially hazardous food is offered*
23 *for sale or for onsite consumption*.

24 (6) ~~Premises~~ *An outlet or location, including, but not limited*
25 *to, premises*, operated by a producer, selling or offering for sale
26 only whole produce grown by the producer or shell eggs, or both,
27 provided the sales are conducted ~~on premises at an outlet or~~
28 *location* controlled by the producer.

29 (7) A commercial food processing establishment as defined in
30 Section 111955.

31 (8) A child day care facility, as defined in Section 1596.750.

32 (9) A community care facility, as defined in Section 1502.

33 (10) A residential care facility for the elderly, as defined in
34 Section 1569.2.

35 (11) A residential care facility for the chronically ill, which has
36 the same meaning as a residential care facility, as defined in Section
37 1568.01.

38 (12) ~~Premises set aside by a beer manufacturer, as defined in~~
39 ~~Section 25000.2 of the Business and Professions Code, that comply~~
40 ~~with Section 118375, for the purposes of beer tasting, regardless~~

1 of whether there is a charge for the beer tasting, if no other
2 beverage, except for beer and prepackaged nonpotentially
3 hazardous beverages, is offered for sale for onsite consumption,
4 and no food, except for crackers, pretzels, or prepackaged food
5 that is not potentially hazardous food is offered for onsite
6 consumption.

7 ~~(13)~~

8 (12) (A) An intermediate care facility for the developmentally
9 disabled, as defined in subdivisions (e), (h), and (m) of Section
10 1250, with a capacity of six beds or fewer.

11 (B) A facility described in subparagraph (A) shall report any
12 foodborne illness or outbreak to the local health department and
13 to the State Department of Public Health within 24 hours of the
14 illness or outbreak.

15 ~~(14)~~

16 (13) A community food producer, as defined in Section 113752.

17 ~~SECTION 1.~~

18 *SEC. 2.* Section 114376 of the Health and Safety Code is
19 amended to read:

20 114376. (a) A community food producer ~~or gleaner~~ may sell
21 or provide whole uncut fruits or vegetables, or unrefrigerated shell
22 eggs, directly to the public, to a permitted food facility, or a cottage
23 food operation if the community food producer ~~or gleaner~~ meets
24 all of the following requirements:

25 (1) Agricultural products shall be grown or produced in
26 compliance with subdivision (b) of Section 113735.

27 (2) Agricultural products ~~shall be~~ *that are packaged shall have*
28 *the package* labeled with the name and address of the community
29 food producer.

30 (3) Conspicuous signage shall be provided in lieu of a product
31 label if the agricultural product is being sold by the community
32 food producer on the site of production. The signage shall include,
33 but not be limited to, the name and address of the community food
34 producer.

35 (4) Best management practices, as described by the Department
36 of Food and Agriculture, regarding small farm food safety
37 guidelines on, but not limited to, safe production, processing, and
38 handling of both nonpotentially hazardous and potentially
39 hazardous foods.

40 (5) Egg production shall be limited to 15 dozen eggs per month.

1 (b) (1) A gleaner may sell or provide whole uncut fruits or
2 vegetables, or unrefrigerated shell eggs, produced by a community
3 food producer directly to the public without registration if the
4 gleaner meets all of the requirements specified in subdivisions (a)
5 and (d).

6 (2) A gleaner may donate whole uncut fruits or vegetables, or
7 unrefrigerated shell eggs, produced by a community food producer
8 to a food bank or food kitchen without registration if it meets both
9 of the following requirements:

10 (A) Best management practices, as described by the Department
11 of Food and Agriculture, regarding small farm food safety
12 guidelines on handling of both nonpotentially hazardous and
13 potentially hazardous foods.

14 (B) Record retention requirements specified in subdivision (d).

15 ~~(b)~~

16 (c) Unless otherwise authorized by a local ordinance adopted
17 by a local jurisdiction, a local city or county health enforcement
18 office ~~may only~~ shall not require a community food producer or
19 gleaner to register with the city or county and to provide specified
20 information, including, but not limited to, the name, address, and
21 telephone number of the community food producer or gleaner if
22 the community food producer or gleaner does not meet any of the
23 following conditions: or meet requirements in addition to those
24 required in subdivisions (a) and (d) if the community food producer
25 meets any of the following conditions:

26 ~~(1) Produce is sold on the premises~~ Agricultural products are
27 sold at the outlet or location, including, but not limited to,
28 premises, controlled by the community food producer pursuant to
29 paragraph (6) of subdivision (c) of Section 113789.

30 ~~(2) Produce is~~ Agricultural products are donated to a food bank
31 or food kitchen that is registered or permitted by a federal, state,
32 or local health agency: provides food at no cost to consumers.

33 ~~(3) Produce is~~ Agricultural products are sold in a food facility
34 permitted by a federal, state, or local health agency.

35 (d) A community food producer or gleaner that sells or provides
36 whole uncut fruits or vegetables, or unrefrigerated shell eggs,
37 directly to the public pursuant to this section shall retain records
38 related to the sale or provision of the food for 30 days, which shall
39 include the type of food sold and the date of sale.

1 (e) A food bank or food kitchen that receives whole uncut fruits
2 or vegetables, or unrefrigerated shell eggs, donated by a
3 community food producer or gleaner pursuant to this section shall
4 retain records related to the donation of the food for 30 days,
5 which shall include the type of food received, the date of receipt,
6 and the name and contact information of the community food
7 producer or gleaner that donated the food.

8 SEC. 3. (a) Section 1.1 of this bill incorporates amendments
9 to Section 113789 of the Health and Safety proposed by both this
10 bill and Assembly Bill 143. It shall only become operative if (1)
11 both bills are enacted and become effective on or before January
12 1, 2016, (2) each bill amends Section 113789 of the Health and
13 Safety Code, (3) Assembly Bill 226 is not enacted or as enacted
14 does not amend that section, and (4) this bill is enacted after
15 Assembly Bill 143, in which case Sections 1, 1.2, and 1.3 of this
16 bill shall not become operative.

17 (b) Section 1.2 of this bill incorporates amendments to Section
18 113789 of the Health and Safety Code proposed by both this bill
19 and Assembly Bill 226. It shall only become operative if (1) both
20 bills are enacted and become effective on or before January 1,
21 2016, (2) each bill amends Section 113789 of the Health and Safety
22 Code, (3) Assembly Bill 143 is not enacted or as enacted does not
23 amend that section, and (4) this bill is enacted after Assembly Bill
24 226 in which case Sections 1, 1.1, and 1.3 of this bill shall not
25 become operative.

26 (c) Section 1.3 of this bill incorporates amendments to Section
27 113789 of the Health and Safety Code proposed by this bill,
28 Assembly Bill 143, and Assembly Bill 226. It shall only become
29 operative if (1) all three bills are enacted and become effective on
30 or before January 1, 2016, (2) all three bills amend Section 113789
31 of the Health and Safety Code, and (3) this bill is enacted after
32 Assembly Bill 143 and Assembly Bill 226, in which case Sections
33 1, 1.1, and 1.2 of this bill shall not become operative.

34 ~~SEC. 2:~~

35 SEC. 4. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O